



Agenda Date: 2/24/09
Agenda Item: VIIB

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

CUSTOMER ASSISTANCE

CONGREGATION YETEV LEV,
Petitioner

v.

NEW JERSEY AMERICAN WATER COMPANY,
Respondent

ORDER OF EXTENSION

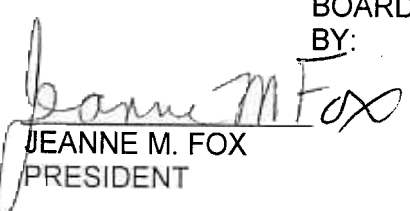
BPU DOCKET NO. WC08060418U
OAL DOCKET NO. PUC 6417-08


The Initial Decision of the Administrative Law Judge was received by the Board of Public Utilities (Board) on February 2, 2009; therefore the 45-day statutory period for review and the issuance of a Final Decision will expire on March 19, 2009. Prior to that date, the Board requests a 45-day extension of time for issuing the Final Decision due to the need to allow time for the filing of exceptions and the lack of Board agenda meetings prior to the expiration date.

Good cause having been shown, pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.8, **IT IS ORDERED** that the time limit for the Board of Public Utilities to render a Final Decision is extended until May 4, 2009.

DATED: 2/25/09

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER

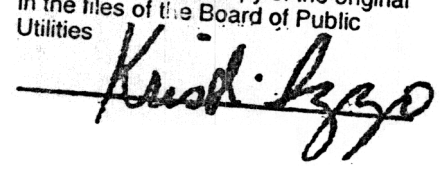

NICHOLAS ASSELTA
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST: 
KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



Date Board mailed Order to OAL:

cc: Service List Attached

DATED:

LAURA SANDERS, DIRECTOR &
CHIEF ADMINISTRATIVE LAW JUDGE

Date OAL mailed executed Order to Board

Date Board mailed executed Order to Parties: _____

CONGREGATION YETEV LEV

v.

NEW JERSEY AMERICAN WATER COMPANY

BPU DOCKET NO. WC08060418U

OAL DOCKET NO. PUC 6417-08

SERVICE LIST

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c/o Congregation Yetev Lev
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(2)



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

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BOARD OF PUBLIC UTILITIES
NEWARK, N.J.

INITIAL DECISION

OAL DKT. NO. PUC 6417-08

AGENCY DKT. NO. WC08060418U

CONGREGATION YETEV LEV,

Petitioner,

v.

**NEW JERSEY AMERICAN WATER
COMPANY,**

Respondent.

Zalmen Rottenberg, petitioner, pro se

Stacy A. Mitchell, Esq., for respondent (Conen O'Connor, attorneys)

Record Closed: January 26, 2009

Decided: February 2, 2009

BEFORE **DOUGLAS H. HURD, ALJ:**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner in this matter is Congregation Yetev Lev, a synagogue located in Lakewood. Petitioner filed a petition for a formal hearing, dated June 2, 2008. The petition was received by the Board of Public Utilities on June 18, 2008. The detailed petition claims, among other items, that New Jersey American Water ("NJAW") billed petitioner for excess sewer usage

Respondent, NJAW, filed its response to the petition by letter dated July 24, 2008. NJAW explains that its sewer charge billing to petitioner was done in accordance with its Board-approved tariff rates. The Board of Public Utilities transferred the matter to the Office of Administrative Law, where it was filed on August 14, 2008. A hearing was held on January 26, 2009. Appearing on behalf of petitioner was Zalmen Rottenberg. He is in charge of the water/sewer account for the petitioner and authorized on its behalf to appear at the hearing

Prior to the hearing beginning, Rottenberg clarified the issues he was seeking to have addressed. First, he was claiming that NJAW overbilled petitioner during 2006 for its sewer usage by 156,000 gallons. This translates into a charge of \$925

Second, petitioner claims that NJAW improperly shut-off its water supply on April 10, 2008. Both parties agree that the water was shut-off for a matter of hours, and that petitioner was credited with the amount it had to pay for a reconnection fee. There was no monetary loss to petitioner. Petitioner stated at the hearing that he wanted an investigation as to why the petitioner's water was shut-off on April 10, 2008. Since I do not have jurisdiction to conduct such an investigation and because petitioner suffered no monetary loss from the shutting down of the water, advised the parties that there were no issues for me to address regarding the water shut-off.

ISSUE

Did NJAW bill petitioner in accordance with its tariff and regulations for sewer usage in 2006?

ANALYSIS

NJAW relied upon the testimony of Lisa Attanasio, service delivery specialist, and documents R-1 through R-4. Petitioner relied upon the testimony of Rottenberg and documents P-1 through P-3.

NJAW's methodology for charging for sewer usage is provided in its Board-approved tariff. For the Lakewood service area, the tariff is listed in R-1. Although this document states it is effective February 14, 2008, there is no dispute that the methodology listed is the same as it was for 2006. The tariff provides as follows:

The volume of sewer use is assumed to equal water meter registration. Monthly sewer usage charges shall be determined based upon winter quarter consumption. Winter quarter consumption shall be determined based on an initial water meter reading taken in December of one year with the concluding meter reading taken approximately 90 days thereafter in March of the following year.

The April through December sewer volume charges are based on the total water volume usage for the months of January, February and March. Sewer water volume charges are based upon actual water usage volume for January, February and March.

Attanasio, with the aide of R-3, detailed how NJAW billed petitioner for the 2006 sewer usage. She explained that the billing was done in accordance with the stated tariff, and how the average 75 units for April through December 2006 was calculated. She also testified that petitioner was provided good faith credits totaling 45,000 gallons. These credits came off the 201,000 gallons that petitioner was disputing, leaving a dispute over the remaining 156,000 gallons. Petitioner agrees that he was in fact provided a credit for 45,000 gallons.

Rottenberg provided a detailed explanation of petitioner's claim. His case was consistent with the claims spelled out in the detailed petition filed with the Board of Public Utilities. In summary, petitioner claims it is unfair that his sewer bill for 2006 was

higher than for the water bill. Rottenberg claims it is impossible to use more sewer than water, and that typically there is less sewer usage than water usage when you take into account landscaping and similar activities. He contends that the water use calculated for January through March 2006 (which forms the basis for the sewer billing for the rest of the year) was inflated.

Having considered the parties arguments, the documentary evidence and the testimony of the witnesses, I conclude that NJAW billed petitioner in accordance with its Board-approved tariff and regulations. The testimony by Attanasio was persuasive and demonstrated that NJAW billed petitioner properly. Rottenberg did not like the fact that he paid more for sewer than for water in 2006, but the fact is that it was done in accordance with the tariff. Furthermore, the evidence showed that in 2007 he was billed significantly less for sewer than for water. This indicates that the tariff methodology sometimes may lead to a different result each year based on the actual water usage for the winter months.

Whether the methodology is fair is not the question before me. The question is whether the methodology in the tariff was followed. After a careful review of the evidence, I conclude that NJAW did in fact follow the Board approved tariff and regulations.

ORDER

Based on the foregoing, I hereby **ORDER** that petitioner's petition be **DISMISSED**. Petitioner is **ORDERED** to remit payment to NJAW for \$925, which equals the 156,000 gallons he was billed for in 2006.

hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

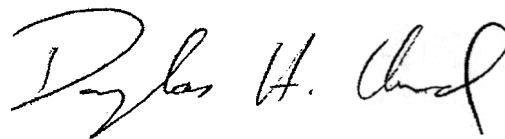
This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **SECRETARY OF THE BOARD OF PUBLIC UTILITIES, 2 Gateway Center, Newark, NJ 07102**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties

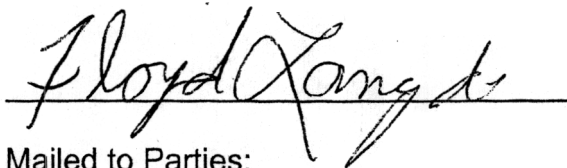
2-2-09

DATE

Date Received at Agency: 2-2-09



DOUGLAS H. HURD,, ALJ



Mailed to Parties:

DATE

OFFICE OF ADMINISTRATIVE LAW

WITNESSES

For petitioner:

Zalmen Rottenberg, representative from petitioner

For respondent:

Lisa Attanasio, Service Delivery Specialist

EXHIBITS

For petitioner:

P-1

P-2 Rottenberg letter, with attachments

P-3 NJAW Contact Information regarding petitioner

For respondent:

R-1

R-2 N.J.A.C. 14:3-7.2

R-3 Letter from Hoffman, dated June 22, 2006

R-4 Usage Information Repot